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10/812,596	03/29/2004	Dan Gaur	P18327	3217
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CAVEN & AGHEVLI c/o INTELLEVATE P.O. BOX 52050 MINNEAPOLIS, MN 55402			FOUD, HICHAM B	
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/812,596	Applicant(s) GAUR, DAN	
	Examiner Hicham B. Foud	Art Unit 2619	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 November 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

1. The amendment filed on 11-26-2007 has been entered and considered.

Claims 1-20 are pending in this application.

Claim 20 has been added.

Claims 1-20 remain rejected as discussed below.

Specification

2. The abstract of the disclosure is objected to because it describes only one embodiment instead of the invention as a whole. Correction is required. See MPEP § 608.01(b).

Applicant is reminded of the proper content of an abstract of the disclosure.

A patent abstract is a concise statement of the technical disclosure of the patent and should include that which is new in the art to which the invention pertains. If the patent is of a basic nature, the entire technical disclosure may be new in the art, and the abstract should be directed to the entire disclosure. If the patent is in the nature of an improvement in an old apparatus, process, product, or composition, the abstract should include the technical disclosure of the improvement. In certain patents, particularly those for compounds and compositions, wherein the process for making and/or the use thereof are not obvious, the abstract should set forth a process for making and/or use thereof. If the new technical disclosure involves modifications or alternatives, the abstract should mention by way of example the preferred modification or alternative.

The abstract should not refer to purported merits or speculative applications of the invention and should not compare the invention with the prior art.

Where applicable, the abstract should include the following:

- (1) if a machine or apparatus, its organization and operation;
- (2) if an article, its method of making;
- (3) if a chemical compound, its identity and use;
- (4) if a mixture, its ingredients;
- (5) if a process, the steps.

Extensive mechanical and design details of apparatus should not be given.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1-3, 7-12, 16 and 19-20 are rejected under 35 U.S.C. 102(e) as being anticipated by Lay (US 2005/0033531).

For claim 1, Lay discloses a method comprising: determining network parameters (see paragraph 0026; wherein "the resource management measures resource usage of receiving buffers"); determining host interface parameters (see paragraph 0026; wherein "the resource management measures resource usage of destination buffers"); setting a storage threshold capacity of a storage device based on at least one network parameter and at least one host interface parameter (see Figure 2; wherein resource measurement engine control the threshold capacity in the flow control logic); and transmitting a request to stop transmission of traffic to the storage device based the storage device exceeding the storage threshold capacity (see Figure 2; wherein pause on engine transmits a pause frame when exceeding the threshold).

For claims 2 and 11, Lay discloses a method and an apparatus further comprising adjusting the storage threshold capacity based on changes to a network parameter (See Figure 5; wherein the change in measuring resource which can depend on the network parameter (receiving buffers) cause the transmission of a pause frame in case of exceeding the threshold or going back to measuring the resource usage in case of not exceeding the threshold).

For claims 3 and 12, Lay discloses a method and an apparatus further comprising adjusting the storage threshold capacity based on changes to a host interface parameter (See Figure 5; wherein the change in measuring resource which can depend on the host interface parameter (destination buffers) cause the transmission of a pause frame in case of exceeding the threshold or going back to measuring the resource usage in case of not exceeding the threshold).

For claim 7, Lay discloses a method further comprising transmitting a request to allow transmission of traffic (see Figure 5; wherein the transmission of Pause off packet is a request to allow transmission of traffic).

For claims 8 and 16, Lay discloses an apparatus and a system comprising: a host system comprising a processor and a memory (see Figure 1, switch 150; inherently, switch 150 has a processor and a memory to function); an interface (see Figure 1, the connection between switch 110 and switch 150); a storage device to store received traffic (see Figure 1; wherein a storage device is inherent in the switch 110 since the adaptive flow control system measures the resources as shown in Figure 2 and the storage device is mentioned in paragraph 0026; wherein "the resource

management measures resource usage of receiving buffers”); and a controller to manage the transmission of traffic to the storage device (see Figure 1, adaptive flow control system), wherein the controller is configured to: determine at least one network parameter see paragraph 0026; wherein “the resource management measures resource usage of receiving buffers”); determine at least one host interface parameter (see paragraph 0026; wherein “the resource management measures resource usage of destination buffers”); set a storage threshold capacity of the storage device based on at least one network parameter and at least one host interface parameter (See Figure 5; wherein the change in measuring resource which can depend on the host interface parameter and network parameter (receiving buffers and destination buffers) cause the transmission of a pause frame in case of exceeding the threshold or going back to measuring the resource usage in case of not exceeding the threshold); monitor storage conditions of a storage device (see Figure 5; the loopback to measuring the resource usage in case of not exceeding the threshold) ; and transmit a request to stop transmission of traffic based on the storage device exceeding the storage threshold capacity (see Figure 5; wherein pause on frame has been transmitted when exceeding the threshold).

For claim 9, Lay discloses an apparatus further comprising a physical layer interface to transfer received traffic to the storage device (see Figure 1, the physical layer that connects elements 120, 130 and 140 to the switch 110).

For claim 10, Lay discloses an apparatus wherein the controller is further configured to perform media access control processing in compliance with IEEE 802.3x

(see Figure 1, wherein the system is Full Duplex and flow control which are the description of the Ethernet standard of 802.3x dated 1997).

For claim 19, Lay discloses a system further comprising a storage device coupled to the interface (see Figure 1, the connection between switch 110 and switch 150; wherein the storage device is inherent in the switch 110).

For claim 20, Lay discloses a system wherein the network parameters correspond to a network coupled to the storage device via a link partner that transmits traffic to the storage device (see Figure 1, wherein switch 150 is connected through link to switch 110 that has storage for received traffic from the network).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 4 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lay in view of Middleton et al (US 2005/0207387) hereinafter is referred to as Middleton and further in view of Hao (US 2003/0172220).

For Claims 4 and 13, Lay further suggested that the network parameter could be besides the receiving buffers, and total resource usage, any other factors of the switch (see paragraph 0026). Lay discloses all the subject matter with the exception of wherein the network parameter includes a plurality of: link speed of a network that

transmits traffic to the storage device; signal propagation speed of a physical medium that transfers traffic from the network to the storage device and length of the physical medium that transfers traffic. However, Middleton discloses a method wherein the network introduces some parameters which are link speed of a network that transmits traffic to the storage device (see [0055] lines 1-7); signal propagation speed of a physical medium that transfers traffic from the network to the storage device and length of the physical medium that transfers traffic (see [0054] lines 1-6). Thus, it would have been obvious to the one skill in the art at the time of the invention to use Middleton's network parameters into the system of Lay for the purpose of identifying the delay introduced by the network and therefore reducing that delay. Lay in view of Middleton discloses all the subject matter with the exception of disclosing the maximum frame size of packets in the traffic as another network parameter. However, Hao from the same or similar field of endeavor teaches the use of a flow controller (see Figure 1, Snooping Module element 140) that uses the maximum frame size of packets in the traffic as a network parameter to control the storage threshold capacity (see paragraph 0023). Thus, it would have been obvious to the one skill in the art at the time of the invention to use the functions of the Snooping Module as taught by Hao into the system of Lay in view of Middleton for the purpose of increasing the system efficiency and easing the flow traffic to avoid any loss of data or overflow.

5. Claims 5 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lay in view of Conley et al (US 7,080,162) hereinafter is referred to as Conley.

For Claims 5 and 14, Lay discloses all the subject matter without explicitly showing wherein the host interface parameter comprises a local bus speed and number of bits that can be transmitted through the bus in a single cycle. However, Lay suggested that the host parameter could be besides the destination buffers and total resource usage, any other factors of the switch (see paragraph 0026). And the transfer of data in a switch or computer is depending on the data rate that implicitly depends on the speed of the bus because the bus is a subsystem that transfers data or power between components. Also, Conley discloses that a local bus is used between elements and preferably a 32 bit or larger bus operating at a sufficient speed (see figure 6 element 110 and column 8 lines 53-58). Thus, it would have been obvious to the one skill in the art at the time of the invention to use the bus speed and number of bits that can be transmitted through the bus in a single cycle as taught by the invention of Conley into the system of Lay for the purpose of easing the flow traffic and minimizing latency.

6. Claims 17 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lay in view of Erimli et al (US 6,487,212).

For Claims 17 and 18, Lay discloses all the subject matter with the exception of wherein the interface is compatible with PCI and PCI-X. However, Erimli et al discloses a switch that includes a PCI interface that may serves as an expansion bus for switch devices (see column 5 lines 43-48). Thus, it would have been obvious to the one skill in the art at the time of the invention to have the interface (switch) compatible with either PCI or PCI-X since PCI-X is the later revisions of PCI added new features and

performance improvements, as taught by the invention of Erimli et al into the invention of Lay for the purpose of increasing the compatibility and flexibility.

7. Claims 6 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lay in view of Zimmermann et al (US 2003/0161302).

For Claims 6 and 15, Lay discloses all the subject matter with the exception of wherein the storage threshold capacity comprises a difference between total storage capacity of the storage device to store traffic from a link partner and a safety margin and wherein the safety margin comprises: (i) amount of bits that might be transmitted from the link partner while the request to stop transmission of traffic is prepared +(ii) amount of bits that might be transmitted from the link partner while the request to stop transmission of traffic is in transit to the link partner +(iii) amount of bits that might arrive to the storage device from the link partner while the link partner processes the request to stop transmission of traffic +(iv) amount of bits that the link partner might have transmitted while the link partner processes the request to stop transmission of traffic - (v) amount of bits drained from the storage device during (i) through (iv). However, Zimmermann et al discloses a method wherein if the data in the buffer reaches threshold, the coming data flow is paused and therefore a safety margin is set (see paragraph 0051). Thus it would have been obvious to the one skill in the art to adapt the method of Zimmermann et al into the system of Lay for the purpose of avoiding loss of data.

Response to Argument

8. Applicant's arguments filed have been fully considered but they are not persuasive.

In page 9 of the remarks, the applicant argues that the switch can not be relied upon to anticipate the claimed network parameters. However, the examiner strongly disagrees with the applicant because the switch is part of a network and also, the claim language does not define the network parameters, therefore the network parameters can be any parameter in the network. The resource management of the switch in the network measures resource usage of receiving buffers, total resource usage and other factors of the switch (see paragraph 0026). Thus, the resource usage of the receiving buffers of the switch in the network read on the claimed network parameters. Also, in response to applicant's argument that claim 20 is further distinguishing the claimed network parameters. It is noted that features of claim 20 are not recited in claim 1. Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Conclusion

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

10. Examiner's Note: Examiner has cited particular columns and line numbers in the references applied to the claims above for the convenience of the applicant. Although the specified citations are representative of the teachings of the art and are applied to specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant in preparing responses, to fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the Examiner. In the case of amending the claimed invention, Applicant is respectfully requested to indicate the portion(s) of the specification which dictate(s) the structure relied on for proper interpretation and also to verify and ascertain the metes and bounds of the claimed invention.

When responding to this office action, applicants are advised to clearly point out the patentable novelty which they think the claims present in view of the state of the art disclosed by the references cited or the objections made. Applicants must also show how the amendments avoid such references or objections. See 37C.F.R 1.111(c). In addition, applicants are advised to provide the examiner with the line numbers and

pages numbers in the application and/or references cited to assist examiner in locating the appropriate paragraphs.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hicham B. Foud whose telephone number is 571-270-1463. The examiner can normally be reached on Monday - Thursday 10-3 EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chau T. Nguyen can be reached on 571-272-3126. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



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02/03/2008



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